

NOTICE OF PROPOSED RULEMAKING

CALIFORNIA CODE OF REGULATIONS
TITLE 21, PUBLIC WORKS
DIVISION 1. DEPARTMENT OF GENERAL SERVICES
CHAPTER 1. DIVISION OF THE STATE ARCHITECT
SUBCHAPTER 2.5 VOLUNTARY CERTIFIED ACCESS SPECIALIST PROGRAM

AMEND ALL SECTIONS
ADD NEW ARTICLES 6 AND 7
ADD SECTIONS 161, 162, 163, 164, 165 AND 171

NOTICE IS HEREBY GIVEN that the Division of the State Architect (DSA) proposes to adopt and amend the above referenced regulation sections contained in Title 21, California Code of Regulations (CCR).

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action to DSA in writing no later than January 5, 2015 until 5p.m. DSA will consider only comments received at DSA by that time. Submit comments to:

Division of the State Architect
1102 Q Street, Suite 5100
Sacramento, CA 95811
Attention: Amber Siepmann

Written comments may also be faxed to (916) 445-7658 or emailed to:

ida.clair@dgs.ca.gov or amber.siepmann@dgs.ca.gov

No public hearing is scheduled. Pursuant to GC §11346.8, should there be a request that a public hearing be held, such request must be made to DSA no later than 15 days prior to the close of the written comment period by any interested person or his or her duly authorized representative.

AUTHORITY AND REFERENCE

Government Code (GC) Section 4459.5 authorizes the State Architect to adopt the proposed regulation, which would implement, interpret, or make specific Section 4459.5 through 4459.8 of the Government Code. In addition the provisions of Sections 55.51-55.545 of the Civil Code as it relates to CASp services are being implemented into the CASp Regulations; and the provisions of Sections 31, 480,481,493, 494.5, and 498 of the Business and Professions Code and 17520 of the Family Code as it relates to certification programs are being implemented into the CASp Regulations.

POLICY STATEMENT OVERVIEW

The federal Americans with Disabilities Act (ADA) of 1990 and the California Building Standards Code (CCR Title 24) require that specified buildings, structures, and facilities be accessible to, and usable by persons with disabilities. GC Section 4450 requires the State Architect to develop and submit proposed building standards to the California Building Standards Commission for approval and adoption for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by persons with disabilities.

In order to assist the public in determining compliance to the applicable standards for accessibility, the State Architect established and publicizes a program for voluntary certification by the State of any person who meets specified criteria as a CASp. The State Architect determined minimum criteria a person must meet for certification. The objectives of the amendments to the regulations further clarify the requirements for examination, certification, and disciplinary requirements, and establish professional standards for the administration of CASp services to protect public health, safety, and welfare.

INFORMATIVE DIGEST

Government Code Section 4459.5 authorized the State Architect to establish and publicize a program for voluntary certification by the state of any person who meets specified criteria as a certified access specialist.

Government Code Section 4459.7 requires the State Architect to annually publish and make available to the public a list of CASps. Amendments to the regulations proposed herein state information that will be disclosed.

GC Section 4459.8 specifies that CASp certification is effective for three years and expires if not renewed; requires each applicant for certification as a Certified Access Specialist to pay fees, including an application fee, examination fee, and certification fee at a level sufficient to meet the operating costs of the program; and authorizes the State Architect, upon consideration of any factual information, may suspend certification or deny renewal of certification.

Subchapter 2.5 of the CCR is the set of rules used for the voluntary Certified Access Specialist (CASp) Program. Proposed amendments to the regulations further clarify the requirements due to examination, certification, and disciplinary requirements, and propose to establish a

delinquency period in which a \$150 Delinquency Fee is assessed but permits certification renewal within the first year of delinquency after certification expiration. In addition, proposed requirements for Professional Standards for CASps require authorization of CASp services by written agreement and establish the significance of the requirement for CASp signature and certification number on CASp inspection reports.

The following forms are incorporated by reference into the proposed text of the regulations:

Form DSA 600-A CASp Eligibility Application (05/16/14)

Form DSA 601 CASp Examination Registration (11/14/14)

Form DSA 602 CASp Test Accommodation(s) Request (05/16/14)

Form DSA 603 CASp Test Accommodation(s) Request Questionnaire (05/16/14)

Form DSA 650 Disclosure of Social Security Number and/or Federal Taxpayer Identification Number (11/14/14)

Form DSA 600-R CASp Certification Renewal Application (11/14/14)

EXISTING LAWS/REGULATIONS

After conducting an evaluation on any regulations relating to this area, the Division of the State Architect has concluded that these are the only regulations that regulate the Certified Access Specialist Program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. In addition, existing Certified Access Specialist Program regulations are proposed to be amended to provide for necessary Program improvements and to reference requirements for work product issued by a CASp as specified in California statute addressing construction-related accessibility claims. Included in the amendments are non-substantive, grammatical and formatting revisions without regulatory effect.

DSA HAS MADE THE FOLLOWING INITIAL DETERMINATIONS

- Mandated by Federal Law and Regulations: **No**
- Mandate on local agencies or school districts: **None**
- Cost to any local agency or school district which must be reimbursed in accordance with GC §17500 thru 17630: **None**
- Costs or savings to any state agency: **None**
- Other non-discretionary costs or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None**
- Significant effect on Housing Costs: **None**
- Significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states: **None**

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Amendment of these regulations will not

- create or eliminate jobs within California;
- create new businesses or eliminate existing businesses within California; or

- affect the expansion of businesses currently doing business within California.

The benefits of this regulation are to clarify the requirements for the examination, certification, disciplinary procedures, and professional standards for the administration of CASp services, which would ultimately lead to a CASp assisting business and facility owners in understanding and achieving compliance under the Americans with Disabilities Act, and in providing accessibility for Californians with disabilities.

COST IMPACT ON PRIVATE PERSONS

DSA has determined that the proposed amendments of existing regulations will have a cost impact on private persons because:

- application fees for licensed design professionals have been decreased in Section 4459.8(b)(2) of the Government Code which provides that the application fee for a California licensed architect, landscape architect, civil engineer, or structural engineer shall not exceed two hundred fifty dollars (\$250). Previously the application fee for the four aforementioned disciplines was \$500, it is now \$100.
- A CASp who has failed to renew certification in a timely manner will be charged a \$150 Delinquency Fee as penalty for the expired certification within the first year of expiration. While this fee is a penalty, it is actually a reduction in fees for the candidate because previously the candidate would have had to pay \$800 in examination fees to requalify for certification through re-examination.
- additional conditions to Grounds for Certification Suspension or Denial of Certification Renewal have been added. There would be a monetary loss to a CASp who could not be practicing during a suspension or denial of certification renewal.

DSA has determined that the proposed amendments to the existing regulations will not have a cost impact on business.

COST BENEFITS

DSA has determined that the proposed amendments of existing regulations will have a cost benefit to private persons as follows:

- A lower application fee for California licensed architects, landscape architects, civil engineers, and structural engineers.
- A \$150 Delinquency Fee instead of a fee of \$800 to retest if a CASp fails to renew certification in a timely manner.

EFFECT ON SMALL BUSINESS

DSA has determined that the proposed amendment of existing regulations does not affect small businesses because the regulation does not regulate small businesses, does not require a report or any other compliance activities.

CONSIDERATION OF ALTERNATIVES

DSA must determine that no reasonable alternative considered by DSA or that has otherwise been identified and brought to the attention of DSA would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. DSA invites interested persons to present statements or arguments with respect to alternatives to the proposed amendment of existing regulations during the written comment period.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be directed to:

Amber Siepmann
Staff Services Manager I
Division of the State Architect, Headquarters
Department of General Services
1102 Q Street, Suite 5100
Sacramento, CA 95811
Phone (916) 445-4047
Fax (916) 445-7658
amber.siepmann@dgs.ca.gov

The backup contact person is:

Ida Clair
Senior Architect
Division of the State Architect, Headquarters
Department of General Services
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Sacramento, CA 95811
Phone (916) 322-2490
Fax (916) 445-7658
Email ida.clair@dgs.ca.gov

AVAILABILITY OF INITIAL STATEMENT OF REASONS, PROPOSED TEXT, AND LOCATION OF THE RULEMAKING FILE

All of the information upon which the proposed amendments to the existing regulations are based is contained in the rulemaking file, which is available for public review. To date, the file consists of:

Notice of Proposed Rulemaking (DOC, PDF)
Initial Statement of Reasons (DOC, PDF)

Proposed Text of Regulations in ~~strikeout~~ and underline (DOC, PDF)
Proposed Text of Regulations in ~~strikeout~~ and underline for screen readers (DOC, PDF)
Standard Form 399 Economic and Fiscal Impact Statement
Economic Impact Assessment
Form DSA 600-A CASp Eligibility Application (05/16/14)
Form DSA 601 CASp Examination Registration (11/14/14)
Form DSA 602 CASp Test Accommodation(s) Request (05/16/14)
Form DSA 603 CASp Test Accommodation(s) Request Questionnaire (05/16/14)
Form DSA 650 Disclosure of Social Security Number and/or Federal Taxpayer Identification
Number (11/14/14)
Form DSA 600-R CASp Certification Renewal Application (11/14/14)

Copies of the rulemaking file may be obtained from our website at <http://www.dgs.ca.gov/dsa/Programs/programCert/casp.aspx> or upon written request to the contact person listed above.

MODIFICATIONS TO THE TEXT OF THE REGULATIONS

After considering all timely and relevant comments received, DSA may adopt the proposed regulations substantially as described in this notice. If DSA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DSA adopts the regulations as revised. Copies of any modified regulations may be accessed through our website at <http://www.dgs.ca.gov/dsa/Programs/programCert/casp.aspx> or upon written request to the attention of Ms. Siepmann at the address indicated above. DSA will accept written comments on the modified regulations for 15 days after the date on which the modified regulations are made available.

FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Express Terms and the Final Statement of Reasons will be available at <http://www.dgs.ca.gov/dsa/Programs/programCert/casp.aspx> or by contacting Amber Siepmann as stated above.